

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
ALEXANDRIA DIVISION

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MASTERFILE CORPORATION,

Plaintiff,

v.

DEVELOPMENT PARTNERS, INC.,

Defendant.

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Civil Action No.

CLERK OF DISTRICT COURT  
ALEXANDRIA, VIRGINIA

1:10 CV 134  
AJT/IDD

**COMPLAINT**

Plaintiff, Masterfile Corporation ("Masterfile" or "Plaintiff") states the following for its Complaint against Development Partners, Inc. ("Development Partners" or "Defendant").

**SUBSTANCE OF THE ACTION**

1. This is an action at law and in equity for copyright infringement arising under the Copyright Act of 1976, 17 U.S.C. § 101 *et seq.*

2. This case arises out of Development Partners' unauthorized reproduction, public display, and unauthorized creation of derivative works of five (5) images, the copyrights in which were all owned by Masterfile at the time of the infringement. Masterfile seeks injunctive relief, an accounting of Development Partners' profits, Masterfile's actual damages (or if it so elects statutory damages), and Masterfile's reasonable costs and attorneys' fees.

**The Parties**

3. Masterfile is a Canadian corporation with its principal place of business located at 3 Concorde Gate, Fourth Floor, Toronto, Ontario, Canada M3C 3N7. Masterfile is a stock photography agency in the business of licensing reproduction and display rights in photographs and other images to users for a fee.

4. On information and belief, Development Partners is a corporation existing under the laws of the Commonwealth of Virginia, with its principal place of business located at 10130E Colvin Run Road, Great Falls, Virginia 22066. Development Partners is engaged in the business of providing real estate development services and operated a website at [www.dev-partners.com](http://www.dev-partners.com) (the "Website") through which it advertised and solicited customers.

#### **Jurisdiction and Venue**

5. This Court has subject matter jurisdiction over this dispute under 28 U.S.C. §§ 1331 and 1338 because this suit arises under the federal Copyright Act.

6. This Court has personal jurisdiction over Development Partners because Development Partners is a citizen of this Commonwealth, transacts business within this Commonwealth, and/or a substantial part of the events giving rise to the claims occurred in this Commonwealth.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(a) because Development Partners does business in this district, a substantial part of the events giving rise to the claims occurred in this district, and Development Partners or its agents may be found in this district.

#### **Facts**

8. Masterfile obtained assignments of the copyrights in five (5) images, identified by Masterfile as 700-00014616, 700-00020430, 700-00024746, 700-00058629, and 700-00064921 (the "Images") and obtained the following certificates of copyright registration from the United States Copyright Office covering each of the Images, with the effective date indicated: VA 1-023-866 (July 17, 2000), VA 1-090-598 (July 20, 2001), and VA 1-108-991 (September 24, 2001). Copies of these registration certificates are attached as Exhibit A.

9. In early 2009, Masterfile became aware that the Images, or derivative works based on the Images, were included on Development Partners' Website.

10. Development Partners is not, and has never been, licensed or authorized to reproduce or display the Images on its Website or to create derivative works based on the Images.

11. Each of the Images is an original work of authorship fixed in a tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device, and as such are protected by copyright.

12. At all times relevant to this action, Masterfile was the sole and exclusive owner of all right, title, and interest in and to the copyright in each of the Images.

13. Development Partners had access to the Images.

14. The Development Partners Website included images identical to or substantially similar to the Images.

15. Without Masterfile's authorization, Development Partners and/or its agents reproduced and publicly displayed Masterfile's copyrightable works and/or created and publicly displayed derivative works based on Masterfile's copyrightable works in violation of the Copyright Act, 17 U.S.C. § 501.

16. Development Partners is liable for copyright infringement.

17. The infringement of Masterfile's copyrights has caused irreparable injury to Masterfile, and unless enjoined by this Court, such infringement could resume and cause further irreparable injury to Masterfile.

18. On information and belief, the acts of infringement alleged herein were committed willfully and in knowing disregard of Masterfile's rights. Development Partners

received several communications from Masterfile regarding Masterfile's rights in the Images and Development Partners' violation of those rights. Despite these warnings, Development Partners continued its infringement of the Images in knowing disregard of Masterfile's rights.

19. As a result of Development Partners' acts of infringement alleged herein and in accordance with Section 504(b) of the Copyright Act, 17 U.S.C. § 504(b), Masterfile is entitled to recover from Development Partners the damages it has sustained and will sustain, and any profits obtained by Development Partners as a result of or attributable to the infringement. At present, the amount of such damages and profits cannot be fully ascertained by Masterfile.

20. Because Masterfile timely registered the copyrights in the Images with the United States Copyright Office in accordance with Section 412 of the Copyright Act, 17 U.S.C. § 412, Masterfile is entitled to recover statutory damages for each such work, if it so elects, in accordance with Section 504(c) of the Copyright Act, 17 U.S.C. § 504(c), and Masterfile is also entitled to recover its attorneys' fees and costs, in accordance with Section 505 of the Copyright Act, 17 U.S.C. § 505.

21. Further, in accordance with Section 502 of the Copyright Act, 17 U.S.C. § 502, Masterfile is entitled to injunctive relief to prevent Development Partners from further copyright infringements of the Images.

WHEREFORE, Plaintiff prays for judgment as follows:

1. Permanently enjoining Defendant, its employees, agents, officers, directors, attorneys, successors, affiliates, subsidiaries, and assigns, and all those in active concert and participation with Defendant from:

(a) reproducing, displaying, distributing, creating derivative works of, or authorizing any third party to reproduce, display, distribute, or create derivative works of the

Images, or any image substantially similar thereto, or otherwise infringing Plaintiff's copyrights in any manner, medium, or form; and

(b) assisting, aiding, or abetting any other person or business entity in engaging or performing any of the activities referred to in subparagraph (a).

2. In accordance with Section 504(b) of the Copyright Act, 17 U.S.C. § 504(b), Plaintiff be awarded such damages as it has sustained and will sustain as a result of or attributable to Defendant's copyright infringement, together with any profits obtained by Defendant as a result of or attributable to Defendant's copyright infringement.

3. Plaintiff, if it so elects, be awarded statutory damages for each work infringed and that such award be increased based on Defendant's willful infringement, in accordance with Section 504(c) of the Copyright Act, 17 U.S.C. § 504(c).

4. In accordance with Section 505 of the Copyright Act, 17 U.S.C. § 505, Plaintiff be awarded its expenses of litigation incurred in connection with this action, including its costs and attorneys' fees.

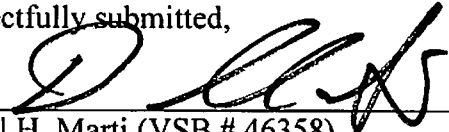
5. Plaintiff be awarded interest, including prejudgment interest, on the foregoing sums.

6. Plaintiff be awarded such other and further relief as the Court may deem just and proper.

[Signature on the following page]

This the 17th day of February, 2010.

Respectfully submitted,



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